

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4624 of 1995

with

CRIMINAL APPEALS NO. 309/96, 310/96, 577/96

AND

CRIMINAL REVISION APPLICATION NO. 2933 of 1995.

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and Sd/-

MR.JUSTICE H.L.GOKHALE Sd/-

=====

1. Whether Reporters of Local Papers may be allowed
to see the judgements?

No

2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

CHHAGNAJI MAKANBHAI ADIVASI

Versus

STATE OF GUJARAT

Appearance:

MR AVINASH K MANKAD for Petitioner

Mr YF Mehta, Addl.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE N.J.PANDYA and

MR.JUSTICE H.L.GOKHALE

Date of decision: 15/01/97

ORAL JUDGEMENT

What was the essentially a civil dispute by way of
suits, appeals and also in the revision application a

complainant was filed before the police as also before the competent court having jurisdiction in the area. As a result, there came to be two sessions cases or special cases under the Atrocity Act. They were special cases No. 218/92 and 118/93 giving rise to as many as three appeals and one revision application. The fact is that the civil dispute resulted into Special Civil Suit No. 112 of 1992 said to have been filed by the petitioner himself. In that suit by Exh. 91, a compromise was arrived at between the parties which has been produced in Misc. Criminal Application No. 4679 of 1996 filed in Criminal Appeal No. 577 of 1996 and Criminal Revision Application No. 2933 of 1995. The remaining two appeals are Criminal Appeals No. 309/96 and 310/96 filed by the State against an acquittal order of the learned Special Judge.

We are aware of the fact that though the parties might have settled their disputes, especially acquittal appeals are concerned as the State has undertaken the prosecution before the trial Court, it is also to be dealt with independently with that prosecution and on its own merits.

On going through the judgment, we find that the order of acquittal passed by the learned Special Judge and Additional Sessions Judge, Banaskantha at Palanpur on 28th September, 1995 is eminently justified. The basic fact of the complainant being in possession of the disputed shop not being established offence obviously cannot be made out and the order of the learned Special Judge is totally in keeping with the record and evidence produced before him and in our opinion no interference of ours is called for and the appeals are dismissed and the revision application is also rejected. The acquittal order passed by Special Judge and Additional Sessions Judge is confirmed. Rule is discharged.
